

**CENTRAL PUGET SOUND
GROWTH MANAGEMENT HEARINGS BOARD
STATE OF WASHINGTON**

RICHARD APOLLO FUHRIMAN,)	
MASTER BUILDERS ASSOCIATION OF)	CPSGMHB Consolidated Case
KING AND SNOHOMISH COUNTIES,)	No. 05-3-0025c
NORTH CREEK VILLAGE LLC, JAMES)	
& SHARLYN PHILLIPS, TOM & SUSAN)	
BERRY and CAMWEST DEVELOPMENT,)	
INC, GATEWAY OFFICE LLC and)	
FUTUREWISE,)	
)	
Petitioners,)	
)	
v.)	
)	
CITY OF BOTHELL,)	ORDER SEGREGATING
)	GATEWAY OFFICE LLC
Respondent,)	PETITION FOR REVIEW
)	[CPSGMHB Case No. 05-3-0024]
and)	FROM THE CONSOLIDATED
)	CASE and GRANTING 30-DAY
FRIENDS OF NORTH CREEK AND)	SETTLEMENT EXTENSION
NEIGHBORS and NORWAY HILL)	
RESIDENTS,)	
)	
Intervenors.)	
)	

I. BACKGROUND

On March 11, 2005, the Central Puget Sound Growth Management Hearings Board (the **Board**) issued the “Prehearing Order and Order on Intervention” (**PHO**) in the above captioned case [*Fuhriman II v. City of Bothell*, CPSGMHB Consolidated Case No. 05-3-0025c. The *Fuhriman* matter involved the consolidation of six separate petitions for review¹ (**PFRs**) filed that challenged the City of Bothell’ Growth Management Act required Plan Update. The PHO established the schedule for the consolidated matter and set the Legal Issues to be decided for the Board.

¹ The six PFRs are: 05-3-0005 [Fuhriman], 05-3-0021 [MBA], 05-3-0022 [North Creek Village], 05-3-0023 [Phillips], 05-3-0024 [Gateway], and 05-3-0025 [Futurewise].

The PHO indicated, “[I]f a settlement extension was pursued by any of the Petitioners and the City, the Board would likely bifurcate, or segregate, that portion of the case from the consolidated proceeding.” PHO, at 3.

On April 1, 2005, the Board received a letter indicating that Gateway Office LLC and the City of Bothell had agreed to enter settlement discussions. Attached to the Letter was a “Stipulated Agreement and Order Extending the Time for Issuing a Decision” (**Settlement Extension Request**) signed by representatives of Petitioner Gateway Office LLC and Respondent the City of Bothell. The parties ask for a 30-day settlement extension in order to pursue settlement discussions. Letter, at 1 and Settlement Extension Request, at 2.

II. DISCUSSION and ORDER

In light of the settlement request, and in order not to delay the consolidated case, the Board **segregates** the Gateway Office LLC PFR from the consolidated proceeding. The Gateway Office LLC PFR, received February 28, 2005, is hereby reassigned **CPSGMHB Case No. 05-3-0024**, and is hereafter this case is hereafter captioned *Gateway Office LLC v. City of Bothell*. The Board notes that none of the Interveners were engaged in any of Gateway’s Legal Issues, and are therefore not part of this segregated case. Board member Edward G. McGuire will continue to serve as the presiding officer in this matter.

Further, the Board has dispensed with a separate motions practice in this segregated matter. The Board will address any outstanding motions,² if necessary, in the Final Decision and Order. If the *Gateway* matter is not settled and the case proceeds to hearing, Petitioner may file a response to the City’s motions (noted in footnote 2) along with the prehearing brief. The City may likewise rebut in its prehearing response brief.

Finally, the Board is empowered to extend the time for issuing its decision if the parties file a timely request for additional time to allow them to pursue negotiations allowing them to resolve the dispute. RCW 36.70A.300(2)(b). Petitioners have timely filed, and signed, a request for a 30-day extension in order to pursue settlement discussions. Consequently, the Board hereby **grants** the 30-day settlement extension and revises the

² On March 28, 2005, the Board received: 1) “Respondent City of Bothell’s Motion to Dismiss Gateway Office LLC Issue 2;” and 2) “Respondent City of Bothell’s Motion to Supplement the Record in Response to Gateway PFR Issue 2.” Additionally, the Board notes that on March 28, 2005, Petitioner filed correspondence with the Board indicating Gateway was awaiting a public records request from the City and may seek to supplement the record. Attached to Petitioner’s 3/28/05 letter were copies of a 1/20/05 letter to Bruce Blackburn from William C. Summers [re: Comprehensive Plan Update] and a 2/17/05 letter to William R Wiselogle from William C. Summers [re: Gateway project]. If this matter is not settled and proceeds to hearing, the Petitioner may include a motion to supplement the record with the prehearing brief and the City may respond in its prehearing response brief. However, the Board strongly encourages the parties to pursue settlement of the entire matter; failing that, pursue resolution of individual issues; or at the very least, agree upon stipulated exhibits to be included in the record if the Board is to decide any outstanding matters.

final schedule as set forth *infra*, in Appendix A. The Legal Issues to be resolved by the Board in this matter are set forth in Appendix B.

So ORDERED this 5th day of April 2005.

CENTRAL PUGET SOUND GROWTH MANAGEMENT HEARINGS BOARD

Edward G. McGuire, AICP
Presiding Officer

APPENDIX A

FINAL SCHEDULE
CPSGMHB Case No. 05-3-0024
Gateway Office LLC v. City of Bothell

All documents must be filed with the Board (**one original plus four copies on three-hole punched paper and copied back-to-back**) and a copy served upon the other party **by 4:00 p.m. on the designated day**, unless otherwise noted.

DATE	EVENT
February 28, 2005	Petition for Review filed (05-3-0024)
March 2, 2005	Order of Consolidation and Notice of Hearing issued in Consolidated case
March 10, 2005	Prehearing Conference: 9:00 a.m., Board's offices Deadline for Respondent's Index (original plus one copy) ³
March 11, 2005	Board Prehearing Order issued in consolidated case
April 1, 2005	Request for Settlement Extension and Segregation received.
April 5, 2005	Order Segregating Gateway matter from consolidated proceeding in <i>Fuhriman</i> and Granting 30-day Settlement Extension.
June 6, 2005	Deadline for Petitioner's Prehearing Brief (with exhibits)
July 1, 2005	Deadline for Core Documents ⁴ Deadline for Respondent's Prehearing Brief (with exhibits)
July 7, 2005	Deadline for Requesting Additional Settlement Extension ⁵
July 21, 2005	Deadline for Petitioner's Reply Brief (optional) Hearing on Merits of Petition: beginning at 2:00 p.m. Board's offices⁶
September 28, 2005	Final Decision and Order due

³ Pursuant to WAC 242-02-522(16) the PO has waived the 30-day requirement for filing the Index in this matter. The Index shall be presented at the PHC.

⁴ The core documents to be filed on May 5, 2005 in the *Fuhriman II* matter must be submitted in this new proceeding.

⁵ See: RCW 36.70A.300(2), *i.e.* no later than one week before the HOM.

⁶ Prior to the HOM, the Board will distribute an Agenda for the HOM indicating the date and time different issues will be presented and argued.

APPENDIX B

Gateway PFR Issues (5)

[North Creek Subarea Plan]

1. Whether the City violated GMA public participation requirements in adopting special site-specific conditions in the North Creek/195th Street Subarea Plan without providing for GMA public notice and comment? [RCW 36.70A.035, .130 and .140]
2. *Whether the Mayor's demonstrated bias against development of the property violated GMA public participation requirements?*⁷
3. Whether the City's adoption of special site-specific conditions in the North Creek/NE 195th Street Subarea Plan creates an internal inconsistency in the City's Comprehensive Plan in violation of RCW 36.70A.070 and RCW 36.70A.080(2)?
4. Whether the City's adoption of special site-specific conditions in the North Creek/NE 195th Street Subarea Plan was arbitrary and discriminatory?
5. Whether the Plan violates GMA planning goals 6 and 11?

⁷ This Legal Issue is the subject of a motion to dismiss by the City of Bothell.